

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21015

Application 30386 of Franciscan Estate Selections
P.O. Box 407
Rutherford, CA 94573

filed on July 21, 1994, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

Tributary to

Unnamed Stream

Pickle Canyon Creek thence Redwood Creek thence
Napa Creek thence Napa River thence San Pablo Bay

within the County of Napa

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Projected Section	Township	Range	Base and Meridian
POD to off-stream storage; North 252,800 feet and East 1,884,950 feet	SE¼ of SW¼	15	6N	5W	MD

3. Purpose of use	4. Place of use	Projected Section	Township	Range	Base and Meridian	Acres
Domestic	SE¼ of SW¼	15	6N	5W	MD	10
Irrigation						
Fire Protection						
Recreational						

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 7 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year. (0000005C)

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (0000005I)

7. The maximum rate of diversion to offstream storage shall not exceed 2.5 cubic feet per second. (0000005J)

8. The capacity of the reservoir covered under this permit shall not exceed 7 acre-feet. (0000005N)

9. The maximum combined withdrawal in any one year under any permit or license issued pursuant to Application 30386, License 12341 (Application 24505), and License 5880 (Application 14489) shall not exceed 13.6 acre-feet. (0070900)

10. Complete application of the water to the authorized use shall be made by December 31, 2009. (0000009)

11. Permittee shall install and maintain devices satisfactory to the SWRCB to measure the rate and quantity of water diverted into the reservoir from unnamed stream tributary, and water released from or flowing out of the reservoir to Pickle Canyon Creek. (0006046)

12. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the SWRCB, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage reading on or about October 1 of each year. Such readings shall be supplied to the SWRCB with the next progress report submitted to the SWRCB by permittee.

The SWRCB may require the release of water which cannot be verified as having been collected to storage prior to October 1 of each year.

The staff gage shall be read year round on an interval not to exceed 7 days, and a record of the readings shall be signed by the Permittee or his representative under penalty of perjury. A copy of the record shall be made available to the Chief of the Division of Water Rights upon request. Prior to any initial storage of water, Permittee shall submit, for written approval by the Chief of the Division of Water Rights, a design of facilities to be used for release of unauthorized storage of water. Any unauthorized storage shall be released at the maximum practical rate.

(0000047)

13. For the protection of fish and wildlife, Permittee shall, during the prescribed collection season of December 15 of each year through March 31 of the succeeding year, bypass a minimum of 50 gallons per minute (gpm). The total streamflow shall be bypassed whenever it is less than 50 gpm.

(0140400)

14. In accordance with Section 1601 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this Permit until Permittee has entered into a stream bed alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fish and wildlife resources have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the Permittee. Any monitoring reports required by the Department under the above streambed alteration agreement shall also be submitted to the SWRCB as attachments to the annual Report of Permittee.

(0000063)

15. To prevent adverse impacts on downstream fish and wildlife habitat due to stream sedimentation, no work shall be started on site grading or construction of diversion facilities and no water shall be diverted under this permit until Permittee has submitted to the Chief, Division of Water Rights, a copy of the County's approval and any erosion control or vegetation preservation plans for the project whichever is part of a grading permit issued by the County of Napa. Thereafter, the approved erosion control plan shall be implemented by permittee during construction and operation of the project.

(0450300)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

(A) Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board (SWRCB) to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(B) The amount authorized for appropriation may be reduced in the license if investigation warrants.

(C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(E) Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of

diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

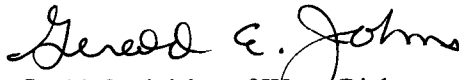
Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or

issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: DEC 13 1999

STATE WATER RESOURCES CONTROL BOARD


for Chief, Division of Water Rights